

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	No. 07 CR 733
v.)	Judge Milton I. Shadur
)	
OLUBUNMI MASHA)	

GOVERNMENT'S CONSOLIDATED RESPONSE TO DEFENDANT'S MOTIONS

The UNITED STATES OF AMERICA by PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, responds as follows to Defendant Olubunmi Masha's Motion to Disclose Identity of Confidential Informant (Document ("D.") 36), Motion For Production of 404(b) Material (D. 37), and Motion For Immediate Disclosure of Favorable Evidence (D.38).

Motion to Disclose Identity of Confidential Informant

1. Citing *Roviaro v. United States*, 353 U.S. 53 (1957), defendant seeks disclosure of the "identity" (D. 36 at 1) of the Confidential Informant in this case, including her current address, or alternatively production of the informant for an interview at the U.S. Attorney's Office. D. 36 at 3. The present case does not present the typical *Roviaro* issue, where an informant with some involvement in the case is not called as a witness at the trial, but could potentially provide exculpatory evidence if defendant called her. See, e.g., *Roviaro*, 353 U.S. at 55-56, 63-64; *United States v. Salgado*, 807 F.2d 603, 605 (7th Cir. 1986). Here, the informant will testify at trial, and defendant will have a full opportunity for cross-examination. Accordingly, *Roviaro* does not state the applicable rule. See *United States v. Perkins*, 994 F.2d 1184, 1190-91 (6th Cir. 1993) (collecting cases).

2. The more pertinent rule is that the government is not required, prior to trial,

to provide a list of witnesses, or to produce its witnesses for pre-trial interviews. See Federal Rule Criminal Procedure 16; *United States v. Pearson*, 340 F.3d 459, 468 (7th Cir. 2003). Defendant will be provided with substantial pre-trial discovery material including transcripts of conversations between the informant-witness and defendant and others, as well as DEA interviews of the informant-witness. Additionally, prior to trial defendant will be given material relevant to cross-examination, including all benefits provided to the informant-witness. Providing the informant-witness' name and address prior to trial would risk the possibility of unwanted contact with the informant-witness, which could have an intimidating effect on her. Accordingly, the government respectfully requests the Court to deny defendant's motion to disclose the "identity" of the confidential informant.

Motion For Production of 404(b) Material

3. At the present time, the government does not plan to offer evidence under Federal rule of Evidence 404(b). If that situation changes, the government will comply with the disclosure requirements of Rule 404(b). Defendant's motion requests detail that exceeds the requirements of Rule 404(b), which only requires disclosure of "the general nature of such evidence." Accordingly, defendant's motion should be denied in its present form.

Motion for Immediate Disclosure of Favorable Evidence

4. The government will comply with its *Brady* and *Giglio* requirements well before the trial in this case. This will include disclosure of all benefits given to the Confidential Informant. Because of the volume of discovery material in this case, however, it will not be practicable to provide all such evidence "immediately." D. 38 at 1. With that reservation, the government does not object to the motion for disclosure of favorable

evidence.

WHEREFORE, the government respectfully requests the Court to deny defendant's Motion to Disclose Identity of Confidential Informant and Motion For Production of 404(b) Material, and to deny in part her Motion For Immediate Disclosure of Favorable Evidence.

Respectfully submitted,

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